

June 15, 1998

GARDINER WATER DISTRICT V CRAIG HALL  
Appeal of Consumer Assistance  
Division Decision dated May 11, 1998,  
CAD # 4274

ORDER ON APPEAL

WELCH, Chairman; NUGENT, Commissioner

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## **I. SUMMARY**

Gardiner Water District (GWD) appeals a decision of the Commission's Consumer Assistance Division (CAD) related to a complaint filed by GWD customer Craig Hall. The question before the Commission is whether GWD had the authority to bill Mr. Hall a \$10 service fee. We affirm a portion of the CAD decision and dismiss GWD's appeal without further investigation.

## **II. BACKGROUND**

On January 28, 1997, Mr. Hall called GWD to report a leak in his water meter. A crew from GWD went to Mr. Hall's residence, that same day, to inspect the meter. The crew discovered that the meter was not leaking, but was sweating due to the different temperatures in the air and the water inside the meter. GWD billed Mr. Hall a \$10 service fee for the crew's visit to his house.

On February 12, 1997, Mr. Hall complained to GWD about the \$10 service fee. On February 18, 1997, Mr. Hall filed a complaint with the CAD to dispute the service fee. On April 29, 1998, the CAD found in Mr. Hall's favor. On May 11, 1998, GWD appealed the CAD's decision to the Commission.

## **III. DECISION**

We affirm, in part, the CAD's decision. The CAD found that at the time GWD charged Mr. Hall it did not have a rate schedule on file with the Commission that would allow it to charge \$10 for a repair that was not the responsibility of GWD. The CAD specialist went on to cite other sections of the Commission's rules (Chapters 620, 81 and 86) in further support of the finding. GWD in its appeal disputes the applicability of Chapters 620 and 81.

Under 35-A M.R.S.A. § 309, it is unlawful for any public utility to charge, demand, collect or receive for any service performed by it, an amount different from that specified in its rate schedules. Section 304 requires public utilities to file those schedules with the Commission. GWD charged Mr. Hall a \$10 service fee on January 28, 1997, almost a year before a rate schedule for such a service fee was in effect.<sup>1</sup> The other issues raised by the CAD in its decision need not to be addressed here because this one issue, GWD's authority to charge, resolves this case.

Although this matter is resolved as it relates to Mr. Hall, we recognize that GWD now has a rate schedule in place that provides for a charge of \$20.00 for a "service call out requested of District to determine water problem at customer's property if problem is found to be customer responsibility (No charge if districts [sic] responsibility)." This service fee should only be charged in situations where the customer can reasonably determine whether the problem is the responsibility of the District. For example, if a reasonable customer should be able to tell the difference between sweating and leaking, then the District should explain to the customer how to make that determination. If this is not possible, then a utility visit is necessary and the customer should not be charged in the event there is no leak. In addition, the utility should inform the customer of any potential charges. We agree with the CAD's statement that "it is unreasonable to assess a service fee on a customer unless that customer is fully informed of the utility's policy and the possible cost of the service."

We further find that the part of the CAD's decision that requires GWD to go back into its records to determine if other customers were charged a similar service fee and to rebate any such charges is unnecessary, particularly given the amount of time that has passed since this violation occurred.

Therefore, we affirm the CAD's decision that GWD had no authority to charge Mr. Hall a \$10 service fee, but we do not require the District to review its records to determine if any other customers were charged a similar service fee.

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<sup>1</sup> GWD's representation that the charge was contained in its "service call policy" available at its offices is not relevant, as this policy was not part of its rate schedules on file with the Commission. GWD did not have in effect a rate schedule allowing for a service fee, for a problem that was not GWD's responsibility, until December 1, 1997.

Accordingly, GWD's appeal is dismissed, without further investigation.

Dated at Augusta, Maine this 15th day of June, 1998.

BY THE ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
  Nugent

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of adjudicatory proceedings are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 6(N) of the Commission's Rules of Practice and Procedure (65-407 C.M.R.11) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which consideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note:The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.